

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1290

Introduced by Assembly Member Jackson

February 21, 2003

An act to amend ~~Section~~ *Sections 646.91, 836, and 12021* of the Penal Code, *and to amend Section 15657.03 of the Welfare and Institutions Code*, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1290, as amended, Jackson. Firearms: prohibitions.

~~Existing law prohibits persons with certain convictions, or who are addicted to the use of any narcotic drug, from owning, possessing, or having under his or her custody or control any firearm, as specified. Violation of these provisions is an offense.~~

~~This bill would expand these provisions to additionally prohibit purchasing, receiving, or attempting to purchase, own, receive, possesses, or have under one's custody or control a firearm, as specified.~~

Existing law provides for various species of protective or restraining orders.

This bill would include within the provisions of certain of those orders, prohibitions regarding owning or possessing firearms, as specified.

Existing law provides that owning or possessing a firearm in knowing violation of certain restraining or protective orders is a crime.

This bill would expand the scope of restraining or protective orders the knowing violation of which in regard to owning or possessing a firearm would be a crime.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 12021 of the Penal Code is amended to~~
2 *SECTION 1. Section 646.91 of the Penal Code is amended to*
3 *read:*
4 646.91. (a) Notwithstanding any other law, a judicial officer
5 may issue an ex parte emergency protective order where a peace
6 officer, as defined in Section 830.1, 830.2, or 830.32, asserts
7 reasonable grounds to believe that a person is in immediate and
8 present danger of stalking based upon the person's allegation that
9 he or she has been willfully, maliciously, and repeatedly followed
10 or harassed by another person who has made a credible threat with
11 the intent of placing the person who is the target of the threat in
12 reasonable fear for his or her safety, or the safety of his or her
13 immediate family, within the meaning of Section 646.9.
14 (b) A peace officer who requests an emergency protective order
15 shall reduce the order to writing and sign it.
16 (c) An emergency protective order shall include all of the
17 following:
18 (1) A statement of the grounds asserted for the order.
19 (2) The date and time the order expires.
20 (3) The address of the superior court for the district or county
21 in which the protected party resides.
22 (4) The following statements, which shall be printed in English
23 and Spanish:
24 (A) "To the protected person: This order will last until the date
25 and time noted above. If you wish to seek continuing protection,
26 you will have to apply for an order from the court at the address
27 noted above. You may seek the advice of an attorney as to any

1 matter connected with your application for any future court orders.
2 The attorney should be consulted promptly so that the attorney
3 may assist you in making your application.”

4 (B) “To the restrained person: This order will last until the date
5 and time noted above. The protected party may, however, obtain
6 a more permanent restraining order from the court. You may seek
7 the advice of an attorney as to any matter connected with the
8 application. The attorney should be consulted promptly so that the
9 attorney may assist you in responding to the ~~application.~~”
10 *application. You may not own, possess, purchase or receive a*
11 *firearm while this order is in effect.”*

12 (d) An emergency protective order may be issued under this
13 section only if the judicial officer finds both of the following:

14 (1) That reasonable grounds have been asserted to believe that
15 an immediate and present danger of stalking, as defined in Section
16 646.9, exists.

17 (2) That an emergency protective order is necessary to prevent
18 the occurrence or reoccurrence of the stalking activity.

19 (e) An emergency protective order may include either of the
20 following specific orders as appropriate:

21 (1) A harassment protective order as described in Section 527.6
22 of the Code of Civil Procedure.

23 (2) A workplace violence protective order as described in
24 Section 527.8 of the Code of Civil Procedure.

25 (f) An emergency protective order shall be issued without
26 prejudice to any person.

27 (g) An emergency protective order expires at the earlier of the
28 following times:

29 (1) The close of judicial business on the fifth court day
30 following the day of its issuance.

31 (2) The seventh calendar day following the day of its issuance.

32 (h) A peace officer who requests an emergency protective order
33 shall do all of the following:

34 (1) Serve the order on the restrained person, if the restrained
35 person can reasonably be located.

36 (2) Give a copy of the order to the protected person, or, if the
37 protected person is a minor child, to a parent or guardian of the
38 protected child if the parent or guardian can reasonably be located,
39 or to a person having temporary custody of the child.

(3) File a copy of the order with the court as soon as practicable after issuance.

(i) A peace officer shall use every reasonable means to enforce an emergency protective order.

(j) A peace officer who acts in good faith to enforce an emergency protective order is not civilly or criminally liable.

(k) A peace officer who requests an emergency protective order under this section shall carry copies of the order while on duty.

(l) A peace officer described in subdivision (a) or (b) of Section 830.32 who requests an emergency protective order pursuant to this section shall also notify the sheriff or police chief of the city in whose jurisdiction the peace officer's college or school is located after issuance of the order.

(m) "Judicial officer," as used in this section, means a judge, commissioner, or referee.

(n) Nothing in this section shall be construed to permit a court to issue an emergency protective order prohibiting speech or other activities that are constitutionally protected or protected by the laws of this state or by the United States or activities occurring during a labor dispute, as defined by Section 527.3 of the Code of Civil Procedure, including but not limited to, picketing and hand billing.

(o) The Judicial Council shall develop forms, instructions, and rules for the scheduling of hearings and other procedures established pursuant to this section.

(p) Any intentional disobedience of any emergency protective order granted under this section is punishable pursuant to Section 166. Nothing in this subdivision shall be construed to prevent punishment under Section 646.9, in lieu of punishment under this section, if a violation of Section 646.9 is also pled and proven.

SEC. 2. Section 836 of the Penal Code is amended to read:

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

1 (2) The person arrested has committed a felony, although not
2 in the officer's presence.

3 (3) The officer has probable cause to believe that the person to
4 be arrested has committed a felony, whether or not a felony, in fact,
5 has been committed.

6 (b) Any time a peace officer is called out on a domestic violence
7 call, it shall be mandatory that the officer make a good faith effort
8 to inform the victim of his or her right to make a citizen's arrest.
9 This information shall include advising the victim how to safely
10 execute the arrest.

11 (c) (1) When a peace officer is responding to a call alleging a
12 violation of a domestic violence protective or restraining order
13 issued under the Family Code, Section 527.6 of the Code of Civil
14 Procedure, Section 213.5 *or 15657.03* of the Welfare and
15 Institutions Code, Section 136.2 ~~of this code~~, *646.91*, or paragraph
16 (2) of subdivision (a) of Section 1203.097 of this code, or of a
17 domestic violence protective or restraining order issued by the
18 court of another state, tribe, or territory and the peace officer has
19 probable cause to believe that the person against whom the order
20 is issued has notice of the order and has committed an act in
21 violation of the order, the officer shall, consistent with subdivision
22 (b) of Section 13701, make a lawful arrest of the person without
23 a warrant and take that person into custody whether or not the
24 violation occurred in the presence of the arresting officer. The
25 officer shall, as soon as possible after the arrest, confirm with the
26 appropriate authorities or the Domestic Violence Protection Order
27 Registry maintained pursuant to Section 6380 of the Family Code
28 that a true copy of the protective order has been registered, unless
29 the victim provides the officer with a copy of the protective order.

30 (2) The person against whom a protective order has been issued
31 shall be deemed to have notice of the order if the victim presents
32 to the officer proof of service of the order, the officer confirms with
33 the appropriate authorities that a true copy of the proof of service
34 is on file, or the person against whom the protective order was
35 issued was present at the protective order hearing or was informed
36 by a peace officer of the contents of the protective order.

37 (3) In situations where mutual protective orders have been
38 issued under Division 10 (commencing with Section 6200) of the
39 Family Code, liability for arrest under this subdivision applies
40 only to those persons who are reasonably believed to have been the

1 primary aggressor. In those situations, prior to making an arrest
2 under this subdivision, the peace officer shall make reasonable
3 efforts to identify, and may arrest, the primary aggressor involved
4 in the incident. The primary aggressor is the person determined to
5 be the most significant, rather than the first, aggressor. In
6 identifying the primary aggressor, an officer shall consider (A) the
7 intent of the law to protect victims of domestic violence from
8 continuing abuse, (B) the threats creating fear of physical injury,
9 (C) the history of domestic violence between the persons involved,
10 and (D) whether either person involved acted in self-defense.

11 (d) Notwithstanding paragraph (1) of subdivision (a), if a
12 suspect commits an assault or battery upon a current or former
13 spouse, fiancé, fiancée, a current or former cohabitant as defined
14 in Section 6209 of the Family Code, a person with whom the
15 suspect currently is having or has previously had an engagement
16 or dating relationship, as defined in paragraph (10) of subdivision
17 (f) of Section 243, a person with whom the suspect has parented
18 a child, or is presumed to have parented a child pursuant to the
19 Uniform Parentage Act (Part 3 (commencing with Section 7600)
20 of Division 12 of the Family Code), a child of the suspect, a child
21 whose parentage by the suspect is the subject of an action under the
22 Uniform Parentage Act, a child of a person in one of the above
23 categories, any other person related to the suspect by
24 consanguinity or affinity within the second degree, or any person
25 who is 65 years of age or older and who is related to the suspect
26 by blood or legal guardianship a peace officer may arrest the
27 suspect without a warrant where both of the following
28 circumstances apply:

29 (1) The peace officer has probable cause to believe that the
30 person to be arrested has committed the assault or battery, whether
31 or not it has in fact been committed.

32 (2) The peace officer makes the arrest as soon as probable cause
33 arises to believe that the person to be arrested has committed the
34 assault or battery, whether or not it has in fact been committed.

35 (e) In addition to the authority to make an arrest without a
36 warrant pursuant to paragraphs (1) and (3) of subdivision (a), a
37 peace officer may, without a warrant, arrest a person for a violation
38 of Section 12025 when all of the following apply:

39 (1) The officer has reasonable cause to believe that the person
40 to be arrested has committed the violation of Section 12025.

(2) The violation of Section 12025 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 12025.

SEC. 3. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or

1 under his or her custody or control, any firearm is guilty of a public
2 offense, which shall be punishable by imprisonment in a county
3 jail not exceeding one year or in the state prison, by a fine not
4 exceeding one thousand dollars (\$1,000), or by both that
5 imprisonment and fine. The court, on forms prescribed by the
6 Department of Justice, shall notify the department of persons
7 subject to this subdivision. However, the prohibition in this
8 paragraph may be reduced, eliminated, or conditioned as provided
9 in paragraph (2) or (3).

10 (2) Any person employed as a peace officer described in
11 Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose
12 employment or livelihood is dependent on the ability to legally
13 possess a firearm, who is subject to the prohibition imposed by this
14 subdivision because of a conviction under Section 273.5, 273.6, or
15 646.9, may petition the court only once for relief from this
16 prohibition. The petition shall be filed with the court in which the
17 petitioner was sentenced. If possible, the matter shall be heard
18 before the same judge that sentenced the petitioner. Upon filing the
19 petition, the clerk of the court shall set the hearing date and shall
20 notify the petitioner and the prosecuting attorney of the date of the
21 hearing. Upon making each of the following findings, the court
22 may reduce or eliminate the prohibition, impose conditions on
23 reduction or elimination of the prohibition, or otherwise grant
24 relief from the prohibition as the court deems appropriate:

25 (A) Finds by a preponderance of the evidence that the
26 petitioner is likely to use a firearm in a safe and lawful manner.

27 (B) Finds that the petitioner is not within a prohibited class as
28 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
29 and the court is not presented with any credible evidence that the
30 petitioner is a person described in Section 8100 or 8103 of the
31 Welfare and Institutions Code.

32 (C) Finds that the petitioner does not have a previous
33 conviction under this subdivision no matter when the prior
34 conviction occurred.

35 In making its decision, the court shall consider the petitioner's
36 continued employment, the interest of justice, any relevant
37 evidence, and the totality of the circumstances. The court shall
38 require, as a condition of granting relief from the prohibition under
39 this section, that the petitioner agree to participate in counseling
40 as deemed appropriate by the court. Relief from the prohibition

1 shall not relieve any other person or entity from any liability that
2 might otherwise be imposed. It is the intent of the Legislature that
3 courts exercise broad discretion in fashioning appropriate relief
4 under this paragraph in cases in which relief is warranted.
5 However, nothing in this paragraph shall be construed to require
6 courts to grant relief to any particular petitioner. It is the intent of
7 the Legislature to permit persons who were convicted of an offense
8 specified in Section 273.5, 273.6, or 646.9 to seek relief from the
9 prohibition imposed by this subdivision.

10 (3) Any person who is subject to the prohibition imposed by
11 this subdivision because of a conviction of an offense prior to that
12 offense being added to paragraph (1) may petition the court only
13 once for relief from this prohibition. The petition shall be filed
14 with the court in which the petitioner was sentenced. If possible,
15 the matter shall be heard before the same judge that sentenced the
16 petitioner. Upon filing the petition, the clerk of the court shall set
17 the hearing date and notify the petitioner and the prosecuting
18 attorney of the date of the hearing. Upon making each of the
19 following findings, the court may reduce or eliminate the
20 prohibition, impose conditions on reduction or elimination of the
21 prohibition, or otherwise grant relief from the prohibition as the
22 court deems appropriate:

23 (A) Finds by a preponderance of the evidence that the
24 petitioner is likely to use a firearm in a safe and lawful manner.

25 (B) Finds that the petitioner is not within a prohibited class as
26 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
27 and the court is not presented with any credible evidence that the
28 petitioner is a person described in Section 8100 or 8103 of the
29 Welfare and Institutions Code.

30 (C) Finds that the petitioner does not have a previous
31 conviction under this subdivision, no matter when the prior
32 conviction occurred.

33 In making its decision, the court may consider the interest of
34 justice, any relevant evidence, and the totality of the
35 circumstances. It is the intent of the Legislature that courts exercise
36 broad discretion in fashioning appropriate relief under this
37 paragraph in cases in which relief is warranted. However, nothing
38 in this paragraph shall be construed to require courts to grant relief
39 to any particular petitioner.

1 (4) Law enforcement officials who enforce the prohibition
2 specified in this subdivision against a person who has been granted
3 relief pursuant to paragraph (2) or (3) shall be immune from any
4 liability for false arrest arising from the enforcement of this
5 subdivision unless the person has in his or her possession a
6 certified copy of the court order that granted the person relief from
7 the prohibition. This immunity from liability shall not relieve any
8 person or entity from any other liability that might otherwise be
9 imposed.

10 (d) (1) Any person who, as an express condition of probation,
11 is prohibited or restricted from owning, possessing, controlling,
12 receiving, or purchasing a firearm and who owns, or has in his or
13 her possession or under his or her custody or control, any firearm
14 but who is not subject to subdivision (a) or (c) is guilty of a public
15 offense, which shall be punishable by imprisonment in a county
16 jail not exceeding one year or in the state prison, by a fine not
17 exceeding one thousand dollars (\$1,000), or by both that
18 imprisonment and fine. The court, on forms provided by the
19 Department of Justice, shall notify the department of persons
20 subject to this subdivision. The notice shall include a copy of the
21 order of probation and a copy of any minute order or abstract
22 reflecting the order and conditions of probation.

23 (2) For any person who is subject to subdivision (a), (b), or (c),
24 the court shall, at the time judgment is imposed, provide on a form
25 supplied by the Department of Justice, a notice to the defendant
26 prohibited by this section from owning, possessing or having
27 under his or her custody or control, any firearm. The notice shall
28 inform the defendant of the prohibition regarding firearms and
29 include a form to facilitate the transfer of firearms. Failure to
30 provide the notice shall not be a defense to a violation of this
31 section.

32 (e) Any person who (1) is alleged to have committed an offense
33 listed in subdivision (b) of Section 707 of the Welfare and
34 Institutions Code, an offense described in subdivision (b) of
35 Section 1203.073, or any offense enumerated in paragraph (1) of
36 subdivision (c), and (2) is subsequently adjudged a ward of the
37 juvenile court within the meaning of Section 602 of the Welfare
38 and Institutions Code because the person committed an offense
39 listed in subdivision (b) of Section 707 of the Welfare and
40 Institutions Code, an offense described in subdivision (b) of

1 Section 1203.073, or any offense enumerated in paragraph (1) of
2 subdivision (c) shall not own, or have in his or her possession or
3 under his or her custody or control, any firearm until the age of 30
4 years. A violation of this subdivision shall be punishable by
5 imprisonment in a county jail not exceeding one year or in the state
6 prison, by a fine not exceeding one thousand dollars (\$1,000), or
7 by both that imprisonment and fine. The juvenile court, on forms
8 prescribed by the Department of Justice, shall notify the
9 department of persons subject to this subdivision.
10 Notwithstanding any other law, the forms required to be submitted
11 to the department pursuant to this subdivision may be used to
12 determine eligibility to acquire a firearm.

13 (f) Subdivision (a) shall not apply to a person who has been
14 convicted of a felony under the laws of the United States unless
15 either of the following criteria is satisfied:

16 (1) Conviction of a like offense under California law can only
17 result in imposition of felony punishment.

18 (2) The defendant was sentenced to a federal correctional
19 facility for more than 30 days, or received a fine of more than one
20 thousand dollars (\$1,000), or received both punishments.

21 (g) (1) Every person who ~~purchases or receives, or attempts to~~
22 ~~purchase or receive, owns or possesses~~ a firearm knowing that he
23 or she is ~~subject to prohibited from doing so~~ by a protective order
24 as defined in Section 6218 of the Family Code, *or* Section 136.2
25 *or 646.91 of this code*, or *by* a temporary restraining order or
26 injunction issued pursuant to Section 527.6 or 527.8 of the Code
27 of Civil Procedure, *or by a protective order issued pursuant to*
28 *Section 15657.03 of the Welfare and Institutions Code*, is guilty of
29 a public offense, which shall be punishable by imprisonment in a
30 county jail not exceeding one year or in the state prison, by a fine
31 not exceeding one thousand dollars (\$1,000), or by both that
32 imprisonment and fine. ~~This subdivision does not apply unless the~~
33 ~~copy of the restraining order personally served on the person~~
34 ~~against whom the restraining order is issued contains a notice in~~
35 ~~bold print stating (1) that the person is prohibited from purchasing~~
36 ~~or receiving or attempting to purchase or receive a firearm and (2)~~
37 ~~specifying the penalties for violating this subdivision, or a court~~
38 ~~has provided actual verbal notice of the firearm prohibition and~~
39 ~~penalty as provided in Section 6304 of the Family Code.~~

~~(2) Every person who owns or possesses a firearm knowing that he or she is prohibited from owning or possessing a firearm by the provisions of a protective order as defined in Section 6218 of the Family Code, Section 136.2 of the Penal Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. This subdivision does not apply unless a copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from owning or possessing or attempting to own or possess a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code.~~

~~(3)~~

(2) Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall also state on its face the expiration date for relinquishment.

~~(4)~~

(3) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

(i) Subject to available funding, the Attorney General, working with the State Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of this section. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to this section or any other provision of law. The protocol shall be completed on or before January 1, 2005.

SEC. 4. Section 15657.03 of the Welfare and Institutions Code is amended to read:

15657.03. (a) An elder or dependent adult who has suffered abuse as defined in Section 15610.07 may seek protective orders as provided in this section.

(b) For the purposes of this section, “protective order” means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(1) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either

1 directly or indirectly, by mail or otherwise, or coming within a
2 specified distance of, or disturbing the peace of the petitioner.

3 (2) An order excluding a party from the petitioner's residence
4 or dwelling, except that this order shall not be issued if legal or
5 equitable title to, or lease of, the residence or dwelling is in the sole
6 name of the party to be excluded or is in the name of the party to
7 be excluded and any other party besides the petitioner.

8 (3) An order enjoining a party from specified behavior that the
9 court determines is necessary to effectuate orders described in
10 paragraph (1) or (2).

11 (c) An order may be issued under this section, with or without
12 notice, to restrain any person for the purpose of preventing a
13 recurrence of abuse, if an affidavit shows, to the satisfaction of the
14 court, reasonable proof of a past act or acts of abuse of the
15 petitioning elder or dependent adult.

16 (d) (1) Upon filing a petition for protective orders under this
17 section, the petitioner may obtain a temporary restraining order in
18 accordance with Section 527 of the Code of Civil Procedure,
19 except to the extent this section provides a rule that is inconsistent.
20 The temporary restraining order may include any of the protective
21 orders described in subdivision (b). However, the court may issue
22 an ex parte order excluding a party from the petitioner's residence
23 or dwelling only on a showing of all of the following:

24 (A) Facts sufficient for the court to ascertain that the party who
25 will stay in the dwelling has a right under color of law to possession
26 of the premises.

27 (B) That the party to be excluded has assaulted or threatens to
28 assault the petitioner.

29 (C) That physical or emotional harm would otherwise result to
30 the petitioner.

31 (2) In the case in which a temporary restraining order is granted
32 without notice, the matter shall be made returnable on an order
33 requiring cause to be shown why a permanent order should not be
34 granted, on the earliest day that the business of the court will
35 permit, but not later than 20 days or, if good cause appears to the
36 court, 25 days from the date the temporary restraining order is
37 granted, unless the order is otherwise modified or terminated by
38 the court.

39 (e) The court may issue, upon notice and a hearing, any of the
40 orders set forth in subdivision (b). The court may issue, after notice

1 and hearing, an order excluding a person from a residence or
2 dwelling if the court finds that physical or emotional harm would
3 otherwise result to the other party.

4 (f) In the discretion of the court, an order issued after notice and
5 a hearing under this section may have a duration of not more than
6 three years, subject to termination or modification by further order
7 of the court either on written stipulation filed with the court or on
8 the motion of a party. These orders may be renewed upon the
9 request of a party, either for three years or permanently, without
10 a showing of any further abuse since the issuance of the original
11 order, subject to termination or modification by further order of the
12 court either on written stipulation filed with the court or on the
13 motion of a party. The failure to state the expiration date on the face
14 of the form creates an order with a duration of three years from the
15 date of issuance.

16 (g) Upon the filing of a petition for protective orders under this
17 section, the respondent shall be personally served with a copy of
18 the petition, notice of the hearing or order to show cause,
19 temporary restraining order, if any, and any affidavits in support
20 of the petition. Service shall be made at least two days before the
21 hearing. The court may, on motion of the petitioner or on its own
22 motion, shorten the time for service on the respondent.

23 (h) The court may, upon the filing of an affidavit by the
24 applicant that the respondent could not be served within the time
25 required by statute, reissue an order previously issued and
26 dissolved by the court for failure to serve the respondent. The
27 reissued order shall be made returnable on the earliest day that the
28 business of the court will permit, but not later than 20 days or, if
29 good cause appears to the court, 25 days from the date of
30 reissuance. The reissued order shall state on its face the date of
31 expiration of the order.

32 (i) *(1) If the person named in a temporary restraining order is*
33 *personally served with the order and notice of hearing with respect*
34 *to a restraining order or protective order based thereon, but the*
35 *person does not appear at the hearing, either personally or by*
36 *counsel, and the terms and conditions of the restraining order or*
37 *protective order, are identical to the temporary restraining order,*
38 *except for the duration of the order, then the restraining order or*
39 *protective order may be served on the person by first-class mail*

1 *sent to that person at the most current address for the person*
2 *available to the court.*

3 (2) *The judicial form for orders issued pursuant to this*
4 *subdivision shall contain a statement in substantially the following*
5 *form:*

6 “NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF
7 THE FACE OF THIS FORM INDICATES THAT BOTH PARTIES
8 WERE PERSONALLY PRESENT AT THE HEARING WHERE
9 THE ORDER WAS ISSUED.

10 IF YOU HAVE BEEN PERSONALLY SERVED WITH A
11 TEMPORARY RESTRAINING ORDER OR EMERGENCY
12 PROTECTIVE ORDER AND NOTICE OF HEARING, BUT YOU
13 DO NOT APPEAR AT THE HEARING EITHER IN PERSON OR
14 BY COUNSEL, AND A RESTRAINING ORDER OR
15 PROTECTIVE ORDER IS ISSUED AT THE HEARING THAT
16 DOES NOT DIFFER FROM THE PRIOR TEMPORARY
17 RESTRAINING ORDER OR EMERGENCY PROTECTIVE
18 ORDER, A COPY OF THE ORDER WILL BE SERVED UPON
19 THE MAIL AT THE FOLLOWING ADDRESS _____. IF THAT
20 ADDRESS IS NOT CORRECT OR YOU WISH TO VERIFY THAT
21 THE TEMPORARY OR EMERGENCY ORDER WAS MADE
22 PERMANENT WITHOUT SUBSTANTIVE CHANGE, CALL THE
23 CLERK OF THE COURT AT _____.”

24 (j) (1) The court shall order the petitioner or the attorney for
25 the petitioner to deliver, or the clerk of the court to mail, a copy of
26 an order issued under this section, or a reissuance, extension,
27 modification, or termination of the order, and any subsequent
28 proof of service, by the close of the business day on which the
29 order, reissuance, extension, modification, or termination was
30 made, to each local law enforcement agency designated by the
31 petitioner or the attorney for the petitioner having jurisdiction over
32 the residence of the petitioner, and to any additional law
33 enforcement agencies within the court’s discretion as are requested
34 by the petitioner. Each appropriate law enforcement agency shall
35 make available information as to the existence and current status
36 of these orders to law enforcement officers responding to the scene
37 of reported abuse.

38 (2) An order issued under this section shall, on request of the
39 petitioner, be served on the respondent, whether or not the
40 respondent has been taken into custody, by any law enforcement

1 officer who is present at the scene of reported abuse involving the
2 parties to the proceeding. The petitioner shall provide the officer
3 with an endorsed copy of the order and a proof of service which
4 the officer shall complete and send to the issuing court.

5 (3) Upon receiving information at the scene of an incident of
6 abuse that a protective order has been issued under this section, or
7 that a person who has been taken into custody is the respondent to
8 that order, if the protected person cannot produce a certified copy
9 of the order, a law enforcement officer shall immediately attempt
10 to verify the existence of the order.

11 (4) If the law enforcement officer determines that a protective
12 order has been issued, but not served, the officer shall immediately
13 notify the respondent of the terms of the order and shall at that time
14 also enforce the order. Verbal notice of the terms of the order shall
15 constitute service of the order and is sufficient notice for the
16 purposes of this section and for the purposes of Section 273.6 of
17 the Penal Code.

18 ~~(j)~~

19 (k) Nothing in this section shall preclude either party from
20 representation by private counsel or from appearing on the party's
21 own behalf.

22 ~~(k)~~

23 (l) There is no filing fee for a petition, response, or paper
24 seeking the reissuance, modification, or enforcement of a
25 protective order filed in a proceeding brought pursuant to this
26 section.

27 ~~(l)~~

28 (m) (1) Fees otherwise payable by a petitioner to a law
29 enforcement agency for serving an order issued under this section
30 may be waived in any case in which the petitioner has requested
31 a fee waiver on the initiating petition and has filed a declaration
32 that demonstrates, to the satisfaction of the court, the financial
33 need of the petitioner for the fee waiver. The declaration required
34 by this subdivision shall be on one of the following forms:

35 (A) The form formulated and adopted by the Judicial Council
36 for litigants proceeding in forma pauperis pursuant to Section
37 68511.3 of the Government Code, but the petitioner is not subject
38 to any other requirements of litigants proceeding in forma
39 pauperis.

1 (B) Any other form that the Judicial Council may adopt for this
2 purpose pursuant to subdivision (p).

3 (2) In conjunction with a hearing pursuant to this section, the
4 court may make an order for the waiver of fees otherwise payable
5 by the petitioner to a law enforcement agency for serving an order
6 issued under this section.

7 ~~(m)~~

8 (n) The prevailing party in any action brought under this
9 section may be awarded court costs and attorney's fees, if any.

10 ~~(n)~~

11 (o) *Every order issued pursuant to this section shall prohibit the*
12 *person subject to it from owning, possessing, purchasing, or*
13 *receiving a firearm.*

14 (p) Any willful disobedience of any temporary restraining
15 order or restraining order after hearing granted under this section
16 is punishable pursuant to Section 273.6 of the Penal Code.

17 ~~(o)~~

18 (q) This section does not apply to any action or proceeding
19 covered by Title 1.6C (commencing with Section 1788) of the
20 Civil Code, by Chapter 3 (commencing with Section 525) of the
21 Code of Civil Procedure, or by Division 10 (commencing with
22 Section 6200) of the Family Code. Nothing in this section shall
23 preclude a petitioner's right to use other existing civil remedies.

24 ~~(p)~~

25 (r) The Judicial Council shall promulgate forms and
26 instructions therefor, rules for service of process, scheduling of
27 hearings, and any other matters required by this section. The
28 petition and response forms shall be simple and concise.

29 ~~read:~~

30 ~~12021. (a) (1) Any person who has been convicted of a~~
31 ~~felony under the laws of the United States, of the State of~~
32 ~~California, or any other state, government, or country, or of an~~
33 ~~offense enumerated in subdivision (a), (b), or (d) of Section~~
34 ~~12001.6, or who is addicted to the use of any narcotic drug, who~~
35 ~~purchases, owns, receives, or has in his or her possession or under~~
36 ~~his or her custody or control any firearm, or who attempts the~~
37 ~~same, is guilty of a felony.~~

38 ~~(2) Any person who has two or more convictions for violating~~
39 ~~paragraph (2) of subdivision (a) of Section 417 and who purchases,~~
40 ~~owns, receives, or has in his or her possession or under his or her~~

~~custody or control any firearm, or who attempts the same, is guilty of a felony.~~

~~(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who purchases, owns, receives, or has in his or her possession or under his or her custody or control any firearm, or who attempts the same, is guilty of a felony.~~

~~(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, purchases, owns, receives, or has in his or her possession or under his or her custody or control any firearm, or who attempts the same, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).~~

~~(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the~~

~~petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:~~

~~(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.~~

~~(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.~~

~~(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.~~

~~In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.~~

~~(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1) may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set~~

1 ~~the hearing date and notify the petitioner and the prosecuting~~
2 ~~attorney of the date of the hearing. Upon making each of the~~
3 ~~following findings, the court may reduce or eliminate the~~
4 ~~prohibition, impose conditions on reduction or elimination of the~~
5 ~~prohibition, or otherwise grant relief from the prohibition as the~~
6 ~~court deems appropriate:~~

7 ~~(A) Finds by a preponderance of the evidence that the~~
8 ~~petitioner is likely to use a firearm in a safe and lawful manner.~~

9 ~~(B) Finds that the petitioner is not within a prohibited class as~~
10 ~~specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,~~
11 ~~and the court is not presented with any credible evidence that the~~
12 ~~petitioner is a person described in Section 8100 or 8103 of the~~
13 ~~Welfare and Institutions Code.~~

14 ~~(C) Finds that the petitioner does not have a previous~~
15 ~~conviction under this subdivision, no matter when the prior~~
16 ~~conviction occurred.~~

17 ~~In making its decision, the court may consider the interest of~~
18 ~~justice, any relevant evidence, and the totality of the~~
19 ~~circumstances. It is the intent of the Legislature that courts exercise~~
20 ~~broad discretion in fashioning appropriate relief under this~~
21 ~~paragraph in cases in which relief is warranted. However, nothing~~
22 ~~in this paragraph shall be construed to require courts to grant relief~~
23 ~~to any particular petitioner.~~

24 ~~(4) Law enforcement officials who enforce the prohibition~~
25 ~~specified in this subdivision against a person who has been granted~~
26 ~~relief pursuant to paragraph (2) or (3) shall be immune from any~~
27 ~~liability for false arrest arising from the enforcement of this~~
28 ~~subdivision unless the person has in his or her possession a~~
29 ~~certified copy of the court order that granted the person relief from~~
30 ~~the prohibition. This immunity from liability shall not relieve any~~
31 ~~person or entity from any other liability that might otherwise be~~
32 ~~imposed.~~

33 ~~(d) (1) Any person who, as an express condition of probation,~~
34 ~~is prohibited or restricted from owning, possessing, controlling,~~
35 ~~receiving, or purchasing a firearm and who purchases, owns,~~
36 ~~receives, or has in his or her possession or under his or her custody~~
37 ~~or control any firearm, or who attempts the same, but who is not~~
38 ~~subject to subdivision (a) or (c) is guilty of a public offense, which~~
39 ~~shall be punishable by imprisonment in a county jail not exceeding~~
40 ~~one year or in the state prison, by a fine not exceeding one thousand~~

1 dollars (\$1,000), or by both that imprisonment and fine. The court,
2 on forms provided by the Department of Justice, shall notify the
3 department of persons subject to this subdivision. The notice shall
4 include a copy of the order of probation and a copy of any minute
5 order or abstract reflecting the order and conditions of probation.

6 (2) For any person who is subject to subdivision (a), (b), or (c),
7 the court shall, at the time judgment is imposed, provide on a form
8 supplied by the Department of Justice, a notice to the defendant
9 prohibited by this section from purchasing, owning, receiving,
10 possessing or having under his or her custody or control any
11 firearm, or attempting to do the same. The notice shall inform the
12 defendant of the prohibition regarding firearms and include a form
13 to facilitate the transfer of firearms. Failure to provide the notice
14 shall not be a defense to a violation of this section.

15 (e) Any person who (1) is alleged to have committed an offense
16 listed in subdivision (b) of Section 707 of the Welfare and
17 Institutions Code, an offense described in subdivision (b) of
18 Section 1203.073, or any offense enumerated in paragraph (1) of
19 subdivision (c), and (2) is subsequently adjudged a ward of the
20 juvenile court within the meaning of Section 602 of the Welfare
21 and Institutions Code because the person committed an offense
22 listed in subdivision (b) of Section 707 of the Welfare and
23 Institutions Code, an offense described in subdivision (b) of
24 Section 1203.073, or any offense enumerated in paragraph (1) of
25 subdivision (c) shall not purchase, own, receive, or have in his or
26 her possession or under his or her custody or control any firearm,
27 or attempt the same, until the age of 30 years. A violation of this
28 subdivision shall be punishable by imprisonment in a county jail
29 not exceeding one year or in the state prison, by a fine not
30 exceeding one thousand dollars (\$1,000), or by both that
31 imprisonment and fine. The juvenile court, on forms prescribed by
32 the Department of Justice, shall notify the department of persons
33 subject to this subdivision. Notwithstanding any other law, the
34 forms required to be submitted to the department pursuant to this
35 subdivision may be used to determine eligibility to acquire a
36 firearm.

37 (f) Subdivision (a) shall not apply to a person who has been
38 convicted of a felony under the laws of the United States unless
39 either of the following criteria is satisfied:

1 ~~(1) Conviction of a like offense under California law can only~~
2 ~~result in imposition of felony punishment.~~

3 ~~(2) The defendant was sentenced to a federal correctional~~
4 ~~facility for more than 30 days, or received a fine of more than one~~
5 ~~thousand dollars (\$1,000), or received both punishments.~~

6 ~~(g) (1) Every person who purchases, owns, receives, has in his~~
7 ~~or her possession, or under his or her control any firearm, or~~
8 ~~attempts the same, knowing that he or she is subject to a protective~~
9 ~~order as defined in Section 6218 of the Family Code, Section~~
10 ~~136.2, or a temporary restraining order or injunction issued~~
11 ~~pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure,~~
12 ~~is guilty of a public offense, which shall be punishable by~~
13 ~~imprisonment in a county jail not exceeding one year or in the state~~
14 ~~prison, by a fine not exceeding one thousand dollars (\$1,000), or~~
15 ~~by both that imprisonment and fine. This subdivision does not~~
16 ~~apply unless the copy of the restraining order personally served on~~
17 ~~the person against whom the restraining order is issued contains a~~
18 ~~notice in bold print stating (1) that the person is prohibited from~~
19 ~~purchasing or receiving or attempting to purchase or receive a~~
20 ~~firearm and (2) specifying the penalties for violating this~~
21 ~~subdivision, or a court has provided actual verbal notice of the~~
22 ~~firearm prohibition and penalty as provided in Section 6304 of the~~
23 ~~Family Code.~~

24 ~~(2) Every person who purchases, owns, receives, or possesses,~~
25 ~~or has in his or her custody or control a firearm, or attempts the~~
26 ~~same, knowing that he or she is prohibited from owning or~~
27 ~~possessing a firearm by the provisions of a protective order as~~
28 ~~defined in Section 6218 of the Family Code, Section 136.2 of the~~
29 ~~Penal Code, or a temporary restraining order or injunction issued~~
30 ~~pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure,~~
31 ~~is guilty of a public offense, which shall be punishable by~~
32 ~~imprisonment in a county jail not exceeding one year, by a fine not~~
33 ~~exceeding one thousand dollars (\$1,000), or by both that~~
34 ~~imprisonment and fine. This subdivision does not apply unless a~~
35 ~~copy of the restraining order personally served on the person~~
36 ~~against whom the restraining order is issued contains a notice in~~
37 ~~bold print stating (1) that the person is prohibited from owning or~~
38 ~~possessing or attempting to own or possess a firearm and (2)~~
39 ~~specifying the penalties for violating this subdivision, or a court~~

~~1 has provided actual verbal notice of the firearm prohibition and
2 penalty as provided in Section 6304 of the Family Code.~~

~~3 (3) Judicial Council shall provide notice on all protective
4 orders that the respondent is prohibited from purchasing, owning,
5 receiving, possessing, or having under his or her custody or control
6 a firearm, or attempting the same, while the protective order is in
7 effect and that the firearm shall be relinquished to the local law
8 enforcement agency for that jurisdiction or sold to a licensed gun
9 dealer, and that proof of surrender or sale shall be filed within a
10 specified time of receipt of the order. The order shall also state on
11 its face the expiration date for relinquishment.~~

~~12 (4) If probation is granted upon conviction of a violation of this
13 subdivision, the court shall impose probation consistent with the
14 provisions of Section 1203.097.~~

~~15 (h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is
16 justifiable where all of the following conditions are met:~~

~~17 (A) The person found the firearm or took the firearm from a
18 person who was committing a crime against him or her.~~

~~19 (B) The person possessed the firearm no longer than was
20 necessary to deliver or transport the firearm to a law enforcement
21 agency for that agency's disposition according to law.~~

~~22 (C) If the firearm was transported to a law enforcement agency,
23 it was transported in accordance with paragraph (18) of
24 subdivision (a) of Section 12026.2.~~

~~25 (D) If the firearm is being transported to a law enforcement
26 agency, the person transporting the firearm has given prior notice
27 to the law enforcement agency that he or she is transporting the
28 firearm to the law enforcement agency for disposition according
29 to law.~~

~~30 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or
31 (e), the trier of fact shall determine whether the defendant was
32 acting within the provisions of the exemption created by this
33 subdivision.~~

~~34 (3) The defendant has the burden of proving by a
35 preponderance of the evidence that he or she comes within the
36 provisions of the exemption created by this subdivision.~~

~~37 (i) Subject to available funding, the Attorney General, working
38 with the State Judicial Council, the California Alliance Against
39 Domestic Violence, prosecutors, and law enforcement, probation,
40 and parole officers, shall develop a protocol for the~~

1 ~~implementation of the provisions of this section. The protocol~~
2 ~~shall be designed to facilitate the enforcement of restrictions on~~
3 ~~firearm ownership, including provisions for giving notice to~~
4 ~~defendants who are restricted, provisions for informing those~~
5 ~~defendants of the procedures by which defendants shall dispose of~~
6 ~~firearms when required to do so, provisions explaining how~~
7 ~~defendants shall provide proof of the lawful disposition of~~
8 ~~firearms, and provisions explaining how defendants may obtain~~
9 ~~possession of seized firearms when legally permitted to do so~~
10 ~~pursuant to this section or any other provision of law. The protocol~~
11 ~~shall be completed on or before January 1, 2005.~~

12 ~~SEC. 2.~~

13 *SEC. 5.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

